Transportation Safety Board of Canada

Bureau de la sécurité des transports du Canada

ANNUAL REPORT TO PARLIAMENT ON THE APPLICATION OF THE *ACCESS TO INFORMATION ACT*

1 APRIL 2013 TO 31 MARCH 2014

Canada

© Minister of Public Works and Government Services 2014
Cat. No. TU1-4/1-2014E

Transportation Safety Board
of Canada

Chair

Bureau de la sécurité des transports
du Canada

Présidente

Place du Centre
200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

2 June 2014

The Honourable Peter Van Loan, P.C., M.P.
Leader of the Government in the House of Commons
House of Commons
Ottawa, Ontario
K1A 0A6

Honourable Minister:

In accordance with section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada is pleased to submit to Parliament this report on its activities relating to the application of the *Act* for the period 1 April 2013 to 31 March 2014.

Sincerely,

Wendy A. Tadros

Canada

Table of Contents

1.0 Introduction 1

2.0 ATIP Office Organization 1

3.0 Delegation of Authority 2

4.0 Disposition of Requests 2

- 4.1 Formal Requests 2
- 4.2 Clients 3
- 4.3 Processing of Requests 3
- 4.4 Fees and Costs 4
- 4.5 Other Requests 4

5.0 Training and Education 4

6.0 Policies, Guidelines and Procedures 5

7.0 Complaints and Investigations 5

8.0 Monitoring Process 6

9.0 Statistics Required by Treasury Board 6

Appendix A – Delegation Order 7

Appendix B – Statistical Report 8-14

1.0 Introduction

Pursuant to section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada (TSB) is pleased to table in Parliament this report on its activities relating to the application of the *Act*. The report covers the period from 1 April 2013 to 31 March 2014.

The purpose of the *Access to Information Act* is to provide a right of access to information to records under the control of government institutions such as the TSB.

The *Canadian Transportation Accident Investigation and Safety Board Act* provides the legal framework that governs TSB activities. Our mandate is to advance transportation safety in the marine, pipeline, rail and air modes of transportation by:

- conducting independent investigations, including public inquiries when necessary, into selected transportation occurrences in order to make findings as to their causes and contributing factors;
- identifying safety deficiencies, as evidenced by transportation occurrences;
- making recommendations designed to eliminate or reduce any such safety deficiencies; and
- reporting publicly on our investigations and on the findings in relation thereto.

More information on the TSB is available at www.bst-tsb.gc.ca.

The TSB's administration of its Access to Information and Privacy (ATIP) activities is in accordance with the government's stated principles that government information should be available to the public with only specific and limited exceptions. Furthermore, the TSB treats personal information in compliance with the code of fair information practices expressed in the *Privacy Act*.

2.0 ATIP Office Organization

During 2013-14, the TSB restructured its Corporate Services Branch. The Director General of Corporate Services assumed responsibility as the ATIP Coordinator. The position of Manager Information Management Division was abolished and the responsibilities for information management were combined with informatics under the new position of Manager Technology and Information Management. The responsibilities for ATIP and the title of ATIP Coordinator will eventually be transferred to a new General Counsel position once staffed in 2014-15. The remainder of the ATIP office consists of five full-time positions. Due to turnover and absences, the TSB has engaged consultants during the year to support the program.

The ATIP Office centrally administers both formal requests made pursuant to the *Act* and informal requests, and provides functional advice and guidance to managers and employees concerning the release of information and protection of privacy. In addition, ATIP analysts are required to exhibit strong consultative and negotiating skills when dealing with requesters, TSB personnel and meeting with representatives of the Office of the Information Commissioner.

The majority of access to information requests made to the TSB pertains to transportation occurrences. Such requests present many challenges to the TSB ATIP Office. In many cases, for example, requests are for a copy of the complete investigation file. Depending on the nature and scope of the investigation, there may be many thousands of often complex records in a variety of media. In addition, the status of the investigation itself affects the availability of records and when certain information may be released under the *Act*.

As considerable expertise is required in the processing of requests, the TSB ATIP function is organized so that ATIP analysts are responsible for centrally reviewing and severing all records. This requires that the analysts remain current with the investigation operations of the various transportation modes and their particular activities, as well as maintain good working relationships with the investigators.

3.0 Delegation of Authority

As required by the legislation, a delegation of authority is in place. For the purposes of the *Access to Information Act*, the "head of the institution" as defined in section 3 of the *Act* is the Chair of the TSB. The incumbents of the positions of Chief Operating Officer, the Director General Corporate Services and the Manager Information Management have been delegated powers by the Chair deemed appropriate for the effective administration of the *Act*. These employees ensure that the TSB meets all its obligations fairly and consistently. The delegation authority will be updated in 2014-15 once the restructuring of the ATIP office is complete.

A copy of the Delegation Order is attached as Appendix A.

4.0 Disposition of Requests

4.1 Formal Requests

Seventy-three (73) new requests were received under the *Access to Information Act* in 2013-14 and twenty-four (24) requests were brought forward from the previous fiscal year, for a total of ninety seven (97) active requests. Of these, sixty-seven (67) requests were completed during the current reporting period, and thirty (30) were carried forward to the next fiscal year.

Of the sixty-seven (67) requests completed during the current reporting period, records were fully disclosed to seventeen (17) applicants. Records did not exist for eight (8) requests, while ten (10) requests were abandoned by their requester. One (1) request was treated informally. Records pertaining to thirty one (31) requests were released with some portions exempted. The TSB invoked a total of one hundred (100) exemptions as follows:

- Section 13: Exempting records obtained in confidence from other levels of government (4);
- Section 16: Exempting records containing law enforcement and investigation information (12);
- Section 19: Exempting records containing personal information (31);
- Section 20: Exempting records containing third-party business information (33);

- Section 21: Exempting records containing information related to the internal decision-making processes of government (13);
- Section 23: Exempting records related to solicitor-client privilege (1); and
- Section 24: Statutory prohibitions against disclosure, stemming from the *Canadian Transportation Accident Investigation and Safety Board Act* (6).

4.2 *Clients*

The majority of new requests, twenty-nine (29) came from business/legal firms representing clients affected by or involved in transportation occurrences. Twenty four (24) requests were received from media sources and twenty (20) requests were received from members of the public.

4.3 *Processing of Requests*

The number of new requests received by the ATIP Office in 2013–14 increased by twenty (20) or 38% compared with the number received in 2012–13. The increase in the number of requests is primarily attributed to an increased interest in information on rail safety following the tragic accident in Lac-Mégantic in July 2013. The number of completed requests in 2013-14 increased marginally by one (1) to sixty-seven (67) or 2% more compared with 2012–13.

The ATIP Office makes every possible effort to process requests within the 30-day time limit as required by the legislation. However, many of the requests received by the TSB involve a large volume of records and also pertain to third-party information, which requires consultation with the third parties before the information can be released.

While the TSB has increased the number of permanent positions dedicated to ATIP, this increase in resources has been offset by recurring challenges with staff turnover. Similar to last year, the TSB engaged contract staff in 2013-14 to supplement its permanent positions. Training and oversight was required during 2013-14 in order to ensure that requests were handled appropriately and consistently by the contract staff as well as two new ATIP analysts. These factors reduced the productivity in the ATIP Office given the learning curve relevant to TSB operations.

Of the sixty-seven (67) requests processed during the reporting period, twenty-eight (28) were completed within the 30-day limit, twelve (12) were completed within 31 to 60 days, six (6) were completed within 61 to 120 days, six (6) were completed within 121 to 180 days, four (4) were completed within 181 to 365 days and eleven (11) were completed in over 365 days. The average time taken to process a request during the 2013–14 reporting period was 148.4 calendar days, compared with last year's average of 178.8 calendar days. The lengthy processing time is primarily explained by the high number of requests that include a large volume of pages and complex technical information. The significant increase in the volume of requests also increases processing times as there are a limited number of ATIP officers to handle the workload.

During this period, the ATIP Office was involved in the search, preparation and review of 131,458 pages of information and the reproduction and release of 102,027 pages of information, including reprints of photographs, videotapes and CD-ROM disks containing photographs. Last year, 167,448 pages were reviewed and 82,997 pages were released.

4.4 *Fees and Costs*

The TSB collected $325 in fees during 2013–14 and waived $10 in application fees. The TSB maintains the right to waive fees, and the decision to reduce or waive fees is made on a case-by-case basis according to the criteria outlined in its ATIP fees policy. The TSB waives the requirement to pay fees, other than the application fee, if the amount payable is less than $25. During 2013-14, the TSB did not collect any fees other than applications fees.

During 2013–14, the ATIP Office incurred an estimated $381,838 in costs to administer the *Access to Information Act*. These costs include salaries, overtime, goods and services, and professional services contracts for temporary help staff but do not include the resources expended by other areas of the TSB to meet the requirements of the *Act*.

4.5 *Other Requests*

The ATIP Office received sixty-six (66) consultation requests from other departments and organizations in 2013-14, compared with thirty three (33) in 2012–13. This 100% increase in volume is primarily explained by consultation requests received from Transport Canada and relate to requests for information following the tragic accident in Lac-Mégantic in July 2013.

One hundred and five (105) new informal requests were also received during the reporting period, compared with fifty (50) last year. These informal requests include fifteen (15) releases of previously released Access to Information packages. The ATIP Office reviewed 33,876 pages of information and released 33,777 pages to requesters, compared with 4,452 pages reviewed and 3,399 pages released last year. These figures do not include other information requests responded to directly by the Communications Branch, the Macro-Analysis group in the Operational Services Branch, and other areas of the TSB at Head Office and in the regional offices. In addition, many publications—such as investigation reports, safety studies, statistical reports, communiqués, investigation updates, and annual reports, including ATIP reports to Parliament—are readily available on the TSB website.

5.0 *Training and Education*

In terms of internal training activities, the TSB has an orientation program in place for new employees, which includes training on ATIP awareness. Two (2) sessions were delivered in 2013-14 to twenty (20) employees. During 2013-14, an ATIP awareness session was also provided to investigators working on the Lac-Mégantic investigation (approximately 10

employees). The ATIP office also provides advice and guidance upon request to individuals and small groups of employees on an informal basis.

Given the responsibilities and knowledge requirements of the TSB ATIP Office, there is a long learning curve for its staff. Continuous on-the-job training is provided to ATIP staff to ensure sound and current knowledge of ATIP requirements and procedures, as well as TSB operations. In this context, ATIP staff attended various workshops organized by the Treasury Board Secretariat throughout the fiscal year. These workshops provided ATIP staff with valuable information on trends and best practices within the ATIP community, updates on recent complaints and court cases, and tools to help improve service standards within the field.

6.0 *Policies, Guidelines and Procedures*

There were no significant revisions to access to information policies or guidelines implemented by the TSB during the reporting period.

7.0 *Complaints and Investigations*

Four (4) new complaints were received by the Office of the Information Commissioner of Canada (OIC) during 2013-14 and one complaint was outstanding from a prior year.

First, the Information Commissioner received a complaint that the TSB failed to provide all records responsive to the request made under the *Access to Information Act*. The complaint alleged that the TSB had or should have additional information responsive to the request. The OIC performed an investigation and concluded that the complaint was not well-founded.

Second, the Information Commissioner received a complaint that the TSB had claimed an unreasonable extension of time for responding to a request for records under the *Access to Information Act*. This complaint was discontinued by the complainant during the year.

Third, the Information Commissioner received a complaint alleging that the TSB had improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the *Access to Information Act*. The complaint is pending as the OIC has not yet assigned an investigator to this file.

Fourth, the Information Commissioner received a complaint that the TSB claimed an unreasonable extension of time for responding to a request for records under the *Access to Information Act*. The TSB claimed an extension of 210 days under paragraphs 9(1)(a) and 9(1)(c), which extended the due date until February 1, 2014. The OIC concluded that the criteria for an extension under 9(1)(a) were not met because the volume of records was not considered to be large. The OIC concluded that the extension under 9(1)(c) was necessary and valid but that the extension period was excessive. The OIC asked that the TSB respond earlier. The OIC's conclusion was that the complaint was well founded and resolved, as the TSB responded within the earlier due date agreed to with the OIC.

Finally, one complaint with the OIC from year 2011-12 was investigated during the year. This complaint alleges that the TSB has improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the *Act*; and that the institution failed to provide all records responsive to the request. The complainant is also questioning TSB's processing of the request under the *Act*. The OIC assigned an investigator during 2013-14, who requested documentation related to this complaint. The conclusions of the investigation have not yet been communicated to the TSB.

8.0 Monitoring Process

The TSB monitors the time to process access to information requests, through bi-weekly meetings between the Director General Corporate Services and the Senior ATIP Analyst during which the status of outstanding requests are reviewed. Any significant issues are raised and discussed with the Chief Operating Officer on an ad hoc basis, such as requiring assistance in processing a particularly complex request.

9.0 Statistics Required by Treasury Board

The statistics required by the Treasury Board Secretariat are found in Appendix B.

Appendix A – Delegation Order

Transportation Safety Board of Canada

Bureau de la sécurité des transports du Canada

DESIGNATION ORDERS

Access to Information Act

The Executive Director, pursuant to Section 73 of the *Access to Information Act*, hereby designates the persons holding the positions of Director General, Corporate Services and Manager, Information Management Division, Corporate Services, or the persons occupying on an acting basis those positions, to exercise the powers and perform the duties and functions of the Executive Director as the head of a government institution under the *Act*.

The original version was signed by
Wendy A. Tadros

Date: 25 January 2010

Canada

Appendix B – Statistical Report

Statistical Report on the *Access to Information Act*

Name of Institution: Transportation Safety Board of Canada

Reporting Period: 2013-04-01 to 2014-03-31

PART 1 - Requests under the *Access to Information Act*

1.1 Number of Requests

	Number of Requests
Received during reporting period	73
Outstanding from previous reporting period	24
Total	97
Closed during reporting period	67
Carried over to next reporting period	30

1.2 Sources of Request

Source	Number of Requests
Media	24
Academia	0
Business (Private Sector)	29
Organization	0
Public	20
Total	73

PART 2 - Requests closed during the reporting period

2.1 Disposition and completion time

Disposition of requests	Completion Time							
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
All disclosed	5	6	5	1	0	0	0	17
Disclosed in part	1	3	7	4	5	3	8	31
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
No records exist	5	2	0	0	1	0	0	8
Request transferred	0	0	0	0	0	0	0	0
Request abandoned	4	1	0	1	0	1	3	10
Treated informally	1	0	0	0	0	0	0	1
Total	16	12	12	6	6	4	11	67

2.2 Exemptions

Section	Number of requests	Section	Number of requests	Section	Number of requests	Section	Number of requests
13(1)(a)	2	16(2)(a)	0	18(a)	0	20.1	0
13(1)(b)	1	16(2)(b)	0	18(b)	0	20.2	0
13(1)(c)	0	16(2)(c)	0	18(c)	0	20.4	0
13(1)(d)	1	16(3)	0	18(d)	0	21(1)(a)	3
13(1)(e)	0	16.1(1)(a)	0	18.1(1)(a)	0	21(1)(b)	9
14(a)	0	16.1(1)(b)	0	18.1(1)(b)	0	21(1)(c)	1
14(b)	0	16.1(1)(c)	0	18.1(1)(c)	0	21(1)(d)	0
15(1)-I.A.*	0	16.1(1)(d)	0	18.1(1)(d)	0	22	0
15(1)-Def.*	0	16.2(1)	0	19(1)	31	22.1(1)	0
15(1)-S.A.*	0	16.3	0	20(1)(a)	1	23	1
16(1)(a)(i)	0	16.4(1)(a)	0	20(1)(b)	18	24(1)	6
16(1)(a)(ii)	0	16.4(1)(b)	0	20(1)(b.1)	0	26	0
16(1)(a)(iii)	1	16.5	0	20(1)(c)	10		
16(1)(b)	1	17	0	20(1)(d)	4		
16(1)(c)	10						
16(1)(d)	0						

* I.A.: International Affairs Def.: Defence of Canada S.A.: Subversive Activities

2.3 Exclusions

Section	Number of requests	Section	Number of requests	Section	Number of requests
68(a)	7	69(1)(a)	0	69(1)(g) re (a)	0
68(b)	0	69(1)(b)	0	69(1)(g) re (b)	0
68(c)	0	69(1)(c)	0	69(1)(g) re (c)	0
68.1	0	69(1)(d)	0	69(1)(g) re (d)	0
68.2(a)	0	69(1)(e)	0	69(1)(g) re (e)	0
68.2(b)	0	69(1)(f)	0	69(1)(g) re (f)	0
				69.1(1)	0

2.4 Format of information released

Disposition	Paper	Electronic	Other formats
All disclosed	9	8	0
Disclosed in part	11	20	0
Total	20	28	0

2.5 Complexity

2.5.1 Relevant pages processed and disclosed

Disposition of requests	Number of pages processed	Number of pages disclosed	Number of requests
All disclosed	69181	69181	17
Disclosed in part	58002	29753	31
All exempted	0	0	0
All excluded	0	0	0
Request Abandoned	4275	3093	10

2.5.2 Relevant pages processed and disclosed by size of requests

Disposition	Less than 100 pages processed		101-500 pages processed		501-1000 pages processed		1001-5000 pages processed		More than 5000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
All disclosed	10	250	3	810	0	0	2	3543	2	64578
Disclosed in part	10	325	9	2407	3	2209	8	16121	1	8691
All exempted	0	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Abandoned	7	19	1	350	0	0	2	2724	0	0
Total	27	594	13	3567	3	2209	12	22388	3	73269

2.5.3 Other complexities

Disposition	Consultation required	Assessment of fees	Legal advice sought	Other	Total
All disclosed	0	0	0	17	17
Disclosed in part	18	0	0	13	31
All exempted	0	0	0	0	0
All excluded	0	0	0	0	0
Abandoned	1	0	0	8	9
Total	19	0	0	38	57

2.6 Deemed refusals

2.6.1 Reasons for not meeting statutory deadline

Number of requests closed past the statutory deadline	Principal Reason			
	Workload	External consultation	Internal consultation	Other
24	12	12	0	0

2.6.2 Number of days past deadline

Number of days past deadline	Number of requests past deadline where no extension was taken	Number of requests past deadline where an extension was taken	Total
1 to 15 days	2	1	3
16 to 30 days	1	1	2
31 to 60 days	3	2	5
61 to 120 days	0	1	1
121 to 180 days	0	1	1
181 to 365 days	0	7	7
More than 365 days	2	3	5
Total	8	16	24

2.7 Request for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
Total	0	0	0

PART 3 - Extensions

3.1 Reasons for extensions and disposition of requests

Disposition of requests where an extension was taken	9(1)(a) Interference with operations	9(1)(b) Consultation		9(1)(c) Third party notice
		Section 69	Other	
All disclosed	2	0	0	0
Disclosed in part	19	0	5	4
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	2	0	0	0
Request abandoned	3	0	0	0
Total	26	0	5	4

3.2 Length of extensions

Length of extensions	9(1)(a) Interference with operations	9(1)(b) Consultation		9(1)(c) Third party notice
		Section 69	Other	
30 days or less	5	0	1	0
31 to 60 days	4	0	2	1
61 to 120 days	10	0	1	2
121 to 180 days	3	0	1	1
181 to 365 days	4	0	0	0
365 days or more	0	0	0	0
Total	26	0	5	4

PART 4 - Fees

Fee Type	Fee Collected		Fee Waived or Refunded	
	Number of requests	Amount	Number of requests	Amount
Application	65	$ 325	2	$ 10
Search	0	$ 0	0	$ 0
Production	0	$ 0	0	$ 0
Programming	0	$ 0	0	$ 0
Preparation	0	$ 0	0	$ 0
Alternative format	0	$ 0	0	$ 0
Reproduction	0	$ 0	0	$ 0
Total	65	$ 325	2	$ 10

PART 5 - Consultations received from other institutions and organizations

5.1 Consultations received from other government institutions and organizations

Consultations	Other government institutions	Number of pages to review	Other organizations	Number of pages to review
Received during the reporting period	53	7094	13	3975
Outstanding from the previous reporting period	2	424	0	0
Total	55	7518	13	3975
Closed during the reporting period	42	5380	13	3975
Pending at the end of the reporting period	13	2138	0	0

5.2 Recommendations and completion time for consultations received from other government institutions

Recommendations	Number of days required to complete consultation requests							
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
Disclose entirely	16	4	1	0	0	0	0	21
Disclose in part	12	1	2	3	0	1	0	19
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	1	0	0	0	0	0	0	1
Other	1	0	0	0	0	0	0	1
Total	30	5	3	3	0	1	0	42

5.3 Recommendations and completion time for consultations received from other organizations

Recommendations	Number of days required to complete consultation requests							
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
Disclose entirely	10	0	0	0	0	0	0	10
Disclose in part	0	0	0	0	0	0	0	0
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	3	0	0	0	0	0	0	3
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	13	0	0	0	0	0	0	13

PART 6 - Completion time of consultations on Cabinet confidences

Number of days	Number of responses received	Number of responses received past deadline
1 to 15	0	0
16 to 30	0	0
31 to 60	0	0
61 to 120	0	0
121 to 180	0	0
181 to 365	0	0
More than	0	0
Total	0	0

Part 7 - Resources related to the *Access to Information Act*

7.1 Costs

Expenditures		Amount
Salaries		$ 248,213
Overtime		$ 1,110
Goods and Services		$ 132,515
☐ Professional services contracts	$ 118,779	
☐ Other	$ 13,736	
Total		$ 381,838

7.2 Human Resources

Resources	Dedicated full-time to ATI activities	Dedicated part-time to ATI activities	Total
Full-time employees	0.00	3.20	3.20
Part-time and casual employees	0.00	0.00	0.00
Regional staff	0.00	0.00	0.00
Consultants and agency personnel	0.00	0.95	0.95
Students	0.00	0.00	0.00
Total	0.00	4.15	4.15

Statistical Report on the *Access to information Act* – 2013-14

Appendix A

Previously released ATI package released informally

Institution	Number of informal releases of previously released ATI packages
Transportation Safety Board of Canada	15